



U.S. Department of Justice

*United States Attorney
Southern District of New York*

300 Quarropas Street
White Plains, New York 10601

October 10, 2018

BY ECF & HAND DELIVERY

Honorable Cathy Seibel
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas Street
White Plains, NY 10601-4150

Re: *United States v. Steven Crea Sr., 17 Cr. 89 (CS)*

Dear Judge Seibel:

The Government respectfully submits this letter pursuant to the Court's order of October 3, 2018 (Dkt. 471). This letter seeks only to answer the questions posed by the Court, and does not generally address the contentions in the relevant defense filing. (*See* Dkt. 469).

First, personnel records maintained by the United States Attorney's Office for the Southern District of New York (the "Office") indicate that Your Honor officially left the Office on June 30, 1991. Records also indicate that the *Baratta* case was reassigned from Your Honor to David Kelley on April 1, 1991. That is generally consistent with the documents located by the Government in its review of the case files from *Baratta*, in that the Government found no document bearing Your Honor's signature dated later than April 8, 1991.

Second, the Government has reviewed the FBI 302 reports found in the *Baratta* files concerning information provided by Alphonse D'Arco. These files were included within the "FBI intelligence and surveillance reports between 1989 and 1993 that mention criminal activity of numerous LCN figures, including Steven Crea, Sr., Dominic Truscello, and Joseph Dinapoli" described in the Government's July 25, 2018 letter.¹ The earliest date of any report concerning

¹ As noted in the Government's July 25, 2018 letter, the date range of all FBI reports in the *Baratta* file mentioning any defendant in this case is 1989 to 1993. The earliest date on any report mentioning Crea Sr. located by the Government is June 5, 1991. (The earlier reports mention now-deceased defendant Dominic Truscello). These reports thus post-date Your Honor's departure from the *Baratta* case. Moreover, as also mentioned in the Government's July 25, 2018 letter, there is no reason to believe that these reports were placed in the *Baratta* file at or near the time they were compiled.

D'Arco's information in the file mentioning Crea Sr. is October 9, 1991—more than six months after Your Honor ceased her involvement in the case. Moreover, the FBI has reviewed its files and informed the Government that D'Arco first began providing information to the FBI on or about September 19, 1991—again well after Your Honor had left both the *Baratta* case and the Office.

Third, in order to review the *Baratta* files at the Court's direction, Assistant United States Attorney Hagan Scotten requested that all files from the *Baratta* case be retrieved from storage. Scotten then instructed two legal interns to read every document in the file and identify every document in which Your Honor's name, or the name of any defendant in this case, appears. This process took approximately two weeks, with one intern working full time and the other assisting for multiple days. To be clear, the interns were given no instruction or permission to exclude any document with those names from their search; their task was solely to identify every document in which those names anywhere appeared. Scotten then reviewed all the documents containing those names and summarized their contents in the July 25, 2018 letter to the Court.

Fourth, with respect to the organization of the boxes containing the *Baratta* files, there is a single box in which the Government found what appears to be Your Honor's files, in that the box contains a general assortment of notes and papers written by or sent to Your Honor. The Government also found documents bearing Your Honor's name in two other boxes that appear to have been organized by subject: A set of subpoenas issued under Your Honor's name was located in a box also containing subpoenas issued by other AUSAs at other times, and a wiretap application written by Your Honor was located in a box also containing wiretap applications written by other AUSAs at other times.² Although the only relevant fact would appear to be that no papers mentioning the defendant appear in documents authored by Your Honor or in the single box that contains Your Honor's files (and thus that might contain documents Your Honor

² The defendant's submission suggests that he discovered the existence of these other two boxes by discerning inconsistencies in the Government's public filings. (See Dkt. 470 at 3). In fact, the Government directly informed the defendant that two other boxes contained documents referencing Your Honor by letter dated September 6, 2018, in response to the Court's order that the Government inform the defendant concerning the organization of the files in question. (Dkt. 411 at 2 n.3).

had seen even if she had not authored them), it is also true that no document mentioning the defendant was found in the other two boxes.

Respectfully submitted,

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